

ORIGINAL**NORDMAN CORMANY HAIR & COMPTON****KAREN GABLER, ESQ.** 5864-0

1000 Town Center Drive

Sixth Floor

Oxnard, California 93036

Telephone: (805) 485-1000

Facsimile: (805) 988-8387

E-mail: kgabler@nchc.com

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAIIJUL 25 2005
at 9 o'clock and 10 min. AM
SUE BEITIA, CLERK**GOODSILL ANDERSON QUINN & STIFEL**

A Limited Liability Law Partnership LLP

ROY J. TJIOE 4861-0**EMILY REBER PORTER** 7699-0

Alii Place, Suite 1800

1099 Alakea Street

Honolulu, Hawaii 96813

Telephone: 547-5600

E-mail: rtjioe@goodsill.com;

eporter@goodsill.com

ORIGINAL

Attorneys for Defendants

HAWAIIAN EXPRESS SERVICE, INC.,

H.E.S. TRANSPORTATION SERVICES,

INC., CALIFORNIA PACIFIC

CONSOLIDATORS, INC., JEFFREY P.

GRAHAM, PETER SCHAUL and PATRICK

HIRAYAMA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;

Plaintiff,

vs.

) Civ. No. 03 00385 SOM-LEK

) (Copyright)

)

) **STIPULATION FOR DISMISSAL**) **OF THE HEX DEFENDANTS**) **WITH PREJUDICE AND ORDER**

590

HAWAIIAN EXPRESS SERVICE,)
INC., a California corporation; H.E.S.)
TRANSPORTATION SERVICES,)
INC., a California corporation;)
CALIFORNIA PACIFIC)
CONSOLIDATORS, INC., a)
California corporation; JEFFREY P.)
GRAHAM, PETER SCHAUL,)
PATRICK HIRAYAMA, California)
citizens, et al.,)
)
Defendants.)
_____)

**STIPULATION FOR DISMISSAL OF THE HEX DEFENDANTS
WITH PREJUDICE AND ORDER**

WHEREAS, Plaintiff Wayne Berry (“Plaintiff”) and Defendants Hawaiian Express Service, Inc., H.E.S. Transportation Services, Inc., California Pacific Consolidators, Inc., Jeffrey P. Graham, Peter Schaul and Patrick Hirayama, (“HEX Defendants”), have reached a settlement of all claims between them in the above-captioned case;

WHEREAS, on July 7, 2005, a Stipulation Regarding Good Faith Settlement and Order was filed in this case, as approved and ordered by this Court, finding a good faith settlement pursuant to HRS § 663-15.5, and barring and/or dismissing any and all claims against the HEX Defendants for contribution or non-contractual indemnity by non-HEX Defendants; and

WHEREAS, submitted simultaneously herewith is a Stipulated Permanent Injunction between Plaintiff and the HEX Defendants signed by their respective attorneys;

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff and the HEX Defendants, by their respective attorneys, that any and all of Plaintiff's claims against the HEX Defendants, set forth in Plaintiff's Second Amended Verified Complaint filed herein on June 18, 2004, are hereby dismissed with prejudice. There are no remaining claims by or against the HEX Defendants.

IT IS FURTHER STIPULATED AND AGREED that each party to this Stipulation shall bear its own attorney's fees and costs.

Notwithstanding the dismissal of the claims against the HEX Defendants, the Court expressly reserves and retains jurisdiction to enforce the Stipulated Permanent Injunction submitted simultaneously herewith.

This Stipulation is being filed pursuant to Rules 41(a)(1)(ii), (a)(2), and (c) of the Federal Rules of Civil Procedure.

Trial in this matter is scheduled for January 24, 2006.

/

/

/

/

/

/

DATED: Honolulu, Hawaii, July 19, 2005.



TIMOTHY J. HOGAN, ESQ.

Attorney for Plaintiff WAYNE BERRY



KAREN GABLER, ESQ.

ROY J. TJIOE, ESQ.

EMILY REBER PORTER, ESQ.

Attorneys for Settling Defendants

HAWAIIAN EXPRESS SERVICE, INC.,

H.E.S. TRANSPORTATION SERVICES,

INC., CALIFORNIA PACIFIC

CONSOLIDATORS, INC., JEFFREY P.

GRAHAM, PETER SCHAUL and

PATRICK HIRAYAMA

APPROVED AND SO ORDERED:



District Judge of the Above-Entitled Court

Wayne Berry v. Hawaiian Express Service, Inc., et al., Civ. No. 03 00385 SOM-LEK, in the United States District Court for the District of Hawaii;
STIPULATION FOR DISMISSAL OF HEX DEFENDANTS WITH PREJUDICE
AND ORDER